



# The Siting of School Facilities and the Growth Management Act

## 2017 School Siting Law: Frequently Asked Questions

### 1. Overview

Two bills passed during the 2017 legislative session affect how certain new schools may be sited outside urban growth areas, and how public facilities and utilities may serve those schools. ESHB 1017 and HB 2243 were codified as [RCW 36.70A.211](#) and [.212](#), specifically for Pierce County, and [RCW 36.70A.213](#) applies to all counties planning under the Growth Management Act (GMA).

To set the context, the GMA goals that encourage compact urban growth and discourage sprawl point to urban growth areas as preferred locations for siting schools, but the GMA does not prohibit schools in rural areas. The GMA defines schools as “public services”, but does not define schools as either an “urban service” or a “rural service.” The GMA also allows a wide variety of rural governmental services<sup>1</sup>, such as domestic water systems, in rural areas. However, the GMA does not allow urban governmental services<sup>2</sup>, specifically sanitary sewer service, to be extended to or expanded in rural areas, except in the limited circumstances discussed later in this guidance.

[RCW 36.70A.213](#) now allows counties to authorize the extension of public facilities and utilities, specifically sewer service, beyond urban growth area boundaries *to serve a school sited in a rural area that serves students from a rural area and an urban area*. These extensions are authorized only if the requirements in the statute are met, and there is agreement among the school district, the county, affected cities, and if required, utility providers. Such school proposals must comply with local comprehensive planning and project approval processes.

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<sup>1</sup> RCW 36.70A.030 (18) “Rural governmental services” or “rural services” include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW [36.70A.110](#) (4).

<sup>2</sup> RCW 36.70A.030 (20). “Urban governmental services” or “urban services” include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

## 2. Who is the intended audience for this guidance?

The guidance is intended to provide basic information to county and city officials on the new GMA provisions relating to siting schools in Pierce County. It also is intended to provide information to county and city officials regarding access to public facilities and utilities, if the school is located outside urban growth areas in any part of the state. Another audience is school district officials as they consider potential locations for new schools. This guidance is designed to provide information about the law within the context of existing GMA provisions. *Text in italics is statutory requirements of the GMA.* Other text includes suggestions and recommendations of best practice.

## 3. What is already required for the siting of schools?

The GMA already required that schools be considered as communities are being planned, and specifically considered when permitting large developments. First, the GMA requires that when urban growth areas are designated, *each city within the county must include areas sufficient to accommodate the broad range of needs and uses that will accompany the projected urban growth, including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.*<sup>3</sup> In addition, the land use element of a comprehensive plan should identify *the general distribution, and general location, and extent of the uses of land*, including public facilities.<sup>4</sup> The GMA also requires counties and cities to *identify lands useful for public purposes, such as schools.*<sup>5</sup> In addition, as part of subdivision approval, permitting jurisdictions must ensure *appropriate provisions are made for schools and school grounds.*<sup>6</sup> If school impact fees are collected, a jurisdiction's capital facilities element must address school facility needs related to growth.<sup>7</sup>

The Office of the Superintendent of Public Instruction (OSPI) recommends that school districts review local land use plans, population projections, and development trends to analyze how anticipated development could affect projections for future student populations.<sup>8</sup> Commerce encourages cities and counties to work with school districts to review the relationship of school district enrollment projections with local population growth projections. For school construction projects that receive state school construction funding assistance, planning for a school should be a part of a district's long-range capital plan, and the OSPI Study and Survey,

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<sup>3</sup> RCW 36.70A.110(2)

<sup>4</sup> RCW 36.70A.070(1)

<sup>5</sup> RCW 36.70A.150, it also states that *the county shall work with the state and the cities within its borders to identify areas of shared need for public facilities....and shall prepare a prioritized list of land necessary for the identified public purposes.*

<sup>6</sup> RCW 58.17.110

<sup>7</sup> RCW 82.02.050, RCW 82.02.090(7).

<sup>8</sup> School Facilities Manual: School Construction Assistance Program (2011), Section 305

consistent with OSPI requirements. This document is required prior to submitting any application for state assistance on a major capital K-12 project.

#### **4. Under the new law, what is the process for siting a school outside the urban growth area (UGA) and extending public facilities and utilities to the school?**

[RCW 36.70A.213](#) does not prohibit a county planning under RCW 36.70A.040 from authorizing the extension of public facilities and utilities to serve a school sited in a rural area. However, RCW 36.70A.213 has the following requirements to authorize the extension of public facilities and utilities to serve a school sited in a rural area that serves students from a rural area and an urban area:

**A. School District Policy:** *The school district board of directors has adopted a policy addressing school service area and facility needs and educational program requirements.*<sup>9</sup> This policy may include criteria for siting schools,<sup>10</sup> school grade configuration, educational programming, recreational facility co-location, feeder schools, transportation routes, or other relevant factors that may affect school siting decisions.

**B. School District Action to Select the Site:** *The applicable school district has made a finding . . . that the district's proposed site is suitable to site the school.* The finding should also address any associated recreational facilities which the district has determined cannot reasonably be collocated on an existing school site, taking into consideration the school district policy (adopted above), and the extent to which vacant or developable land within the growth area meets those requirements.<sup>11</sup> Playgrounds and fields associated with activities during the normal school day (e.g., recess and physical education) are expected to be a part of planning for new, expanded or modernized school sites. Shared use of recreational facilities may be considered as part of the proposal.<sup>12</sup>

Though it is not required, Commerce recommends that the district include, as part of its findings, the policies used to make the site selection, cost considerations, or other relevant information<sup>13</sup> that can help support city and county concurrence of the school district's finding.

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<sup>9</sup> The Washington State School Directors Association (WSSDA) develops model policies for school district consideration; policy 6900 addresses facilities planning. Policy 6905 addresses site acquisition.

<sup>10</sup> See, for example, advisory school sizing guidance from OSPI (WAC 392-342-020).

<sup>11</sup> RCW 36.70A.213 (1)(b).

<sup>12</sup> See MRSC's web page on parks and recreation partnerships and agreements at [mrsc.org/Home/Explore-Topics/Parks-and-Recreation/Partnerships-and-Agreements/Intergovernmental-Cooperation-in-Parks-and-Recreat.aspx](http://mrsc.org/Home/Explore-Topics/Parks-and-Recreation/Partnerships-and-Agreements/Intergovernmental-Cooperation-in-Parks-and-Recreat.aspx)

<sup>13</sup> For example, under existing rules, the school district must obtain written approval from the county health officer that the site presents no health problems and avoids, or identifies and mitigates, natural and manmade hazards, such as air pollution and noise (WAC 246-366-030).

**C. Concurrence by the County and Affected Cities:** The legislative authority of the county and any affected cities<sup>14</sup> review the school district's finding and may concur with those findings in the form of a resolution or other legislative action. Though the legislation does not provide guidance on how concurrence should occur, Commerce recommends the county and affected cities base their decisions on the school district's documentation, relevant policies in the county or city comprehensive plan or countywide planning policies<sup>15</sup>, and the ability to extend public facilities and utilities. If a county or affected city concurs with the school district's finding, the county and any affected cities should also at that time *agree to the extension of public facilities and utilities to serve the school*.

If a county or affected city finds that it cannot concur with the school district's findings regarding the proposed school, Commerce recommends documenting the reasons.

## **5. Can an existing rural school be expanded and served with sewer?**

RCW 36.70A.213(2) *does not prohibit either the expansion or modernization of an existing school in the rural area or the placement of portable classrooms at an existing school in the rural area*. However, the legislation does not specify whether a county may choose to authorize the extension of public facilities and utilities to an existing school in a rural area if the project also serves urban students and follows the steps in RCW 36.70A.213.

## **6. If public facilities and utilities, such as sewer, extend to a rural school, who pays for the extension?**

*If the public facility or utility is extended beyond the urban growth area to serve a school, the public facility or utility must serve only the school, and the costs of such extension must be borne by the applicable school district based on a reasonable nexus to the impacts of the school<sup>16</sup>, except to address public health and environment concerns detailed in the next section.*

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<sup>14</sup> RCW 36.70A.213 (b and c) do not define "affected cities". Such cities could be considered as those within a school district's boundary, or that would provide public facilities and services to the rural school, such as water, sewer, or roads.

<sup>15</sup> For example, underlying land use regulations may preclude certain sites, such as resource lands of long-term commercial significance, hazardous critical areas, or in other areas that pose risks, such as airport clear zones. In addition, Commerce recommends consideration of potential impacts to "rural character" as defined in RCW 36.70A.030 (16):

<sup>16</sup> RCW 36.70A.213 (1)(d).

## 7. If a sewer line extends to a school outside an urban growth area, can neighboring properties connect to the line?

RCW 36.70A.213 allows the extension of sewer lines outside urban growth areas only to serve *a school sited in a rural area that serves students from a rural area and an urban area*. RCW 36.70A.213(3) also allows connection to school-related public facilities and services where consistent with RCW 36.70A.110(4), *“in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development”*.<sup>17,18</sup> This could mean, for example, that there is a documented potential for failure of existing wastewater systems, or contamination of a source of drinking water, of surface water, or of shellfish beds.<sup>19</sup> Generally, documentation of such a problem would come from the county health department, which may consult with the state Departments of Health and/or Ecology.<sup>20</sup>

Next, affected property owners may request connection to address the problem, and *the county or affected cities must agree with the request*. RCW 36.70A.213 states that a connection may be made if *the property is no farther from the public facility or utility than the distance that, if a property were within an urban growth area, the property would be required to connect to the public facility or utility*. In these cases, RCW 36.70A.213 (3) allows latecomer fees<sup>21</sup> to be collected on behalf of the school district for up to 20 years to reimburse the school district expenditures to extend the public facility or utility.

## 8. Does the new law apply to private schools?

RCW 36.70A.211 – 213 do not distinguish between public school districts and private schools. The legislation was developed within the context of testimony regarding the siting, growth, and financing challenges experienced by public school districts, and statute is silent on its applicability to private schools.

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<sup>17</sup> RCW 36.70A.110 (4).

<sup>18</sup> See *Thurston Cty. v. Cooper Point Ass’n*, 148 Wash. 2d 1, 57 P.3d 1156 (2002)

<sup>19</sup> WAC 173-98-710

<sup>20</sup> If the system is regulated under chapter 246-272A, the county health department provides documentation. If the system is regulated under chapter 246-272B, the state Department of Health (DOH) provides documentation. For cities or counties out of compliance with the GMA and seeking funding for a water pollution control projects, the declaration must come from DOH. See WAC 246-272A-0280, WAC 246-272B-07450, WAC 173-98-030(61,71).

<sup>21</sup> There is no authorization in state law for school districts to collect latecomer fees. However, municipal owners of sewer utilities may collect them on behalf of school districts. See [mrsc.org/Home/Explore-Topics/Public-Works/Finance/Latecomer-Agreements-for-Cities-Towns-nbsp;Count.aspx](http://mrsc.org/Home/Explore-Topics/Public-Works/Finance/Latecomer-Agreements-for-Cities-Towns-nbsp;Count.aspx) for more information.

## 9. How can school districts and local governments work together to site schools?

Because the findings discussed in section 4b of this guidance require consideration of vacant and developable land with the urban growth area, Commerce recommends school districts and the local government first work together to identify potential school sites within urban growth areas, or, if sites within the urban growth areas are unavailable, to select rural sites and plan their development to minimize effects to rural areas and limit costs to school districts.

To facilitate the siting of schools within urban areas, Commerce recommends cities and counties work with school districts to assess zoning, height limits, and other factors that may affect the ability of a school to site within an urban growth area. Counties and cities can help school districts by identifying opportunities for joint-use facilities. County policies may address schools in the rural area, and set out locational, buffering or screening policies to protect rural character. As schools are considered in the rural area, the long-term plan for the area should be considered, but new school development should never be used to intentionally drive urban development in a rural area.

## 10. What information must Commerce submit to the state for schools planned, under construction or built under this law?

*By December 1, 2023, the Department of Commerce must report to the Governor and the appropriate committees of the legislature about schools outside of urban growth areas that have been built, are under construction, or are planned, as a result of RCW 36.70A.213.<sup>22</sup> The report must include the number, location, and characteristics of the schools (such as grade levels and associated recreation facilities), the number of urban and rural students served, and a cost analysis of schools built outside of urban growth boundaries.* The state will be collecting this information from school districts. Commerce suggests the cost analysis include the costs of site acquisition, extension of public facilities and utilities, including sewer, water, road, sidewalk, and other improvements, and information about the cost of transporting students to the location of the school compared to a site or sites considered within the UGA. In some cases, a school district may analyze a single site, or may compare multiple sites, including urban or rural sites.

## 11. How are the laws different for Pierce County?

In Pierce County only, RCW 36.70A.211 provides that the *county may authorize the siting of a school in a rural area, serving students from an urban area, even where otherwise prohibited by a multicounty planning policy,<sup>23</sup> under the following circumstances:*

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<sup>22</sup> RCW 36.70A.213(4)

<sup>23</sup> Multicounty planning policies are required by RCW 36.70A.210(7). Coordinated by the Puget Sound Regional Council, they are collectively called *Vision 2040*. As required by RCW 36.70A.211, these policies must be amended to

- Pierce County *must have adopted in its comprehensive plan a policy concerning the siting of schools in rural areas.*
- *Any impacts associated with the siting of such a school are mitigated as required by the state environmental policy act.*
- Pierce County *must be a participant in a multicounty planning policy. This policy must be amended, at its next regularly scheduled update, to include a policy that addresses the siting of schools in rural areas of all counties subject to the multicounty planning policy.*

This means Pierce County may authorize a school outside an urban growth area, even when such a decision is not consistent with multicounty planning policies in Vision 2040, or subsequent multi-county planning policies addressing school siting. This provision expires June 30, 2031.

In addition, RCW 36.70A.211 states that a Pierce County school sited under this law may not be included in the district's calculations for school impact fees, nor shall it receive funding from this source.<sup>24</sup> In addition, if Pierce County chooses to site schools under RCW 36.70A.211, RCW 36.70A.212 requires Pierce County school districts to participate in Pierce County's next periodic comprehensive plan update<sup>25</sup> by:

- *Coordinating its enrollment forecasts and projections with the county's adopted population projections.*
- *Identifying school siting criteria with the county, cities and regional transportation planning organizations.*
- *Identifying suitable school sites with the county and cities, with priority to siting urban serving schools in existing cities and towns in locations where students can safely walk and bicycle to the school from their homes and that can effectively be served by transit.<sup>26</sup>*
- *Working with the county and cities to identify school costs and funding sources to include in the capital facilities element of the Pierce County Comprehensive Plan.*

In addition to the requirements under RCW.70A.211 and .212 for siting a school outside an urban growth area in Pierce County, the steps listed in RCW 36.70A.213 must be followed to authorize the extension of public facilities and utilities to the school.

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*include a policy that addresses the siting of schools in rural areas in all counties subject to the multicounty planning policy at the next regularly scheduled update.*

<sup>24</sup> As required by RCW 36.70A.211 (3)

<sup>25</sup> Required by RCW 36.70A.130 (5). Pierce County is next required to review and update its comprehensive plan and development regulations by June 30, 2023.

<sup>26</sup> RCW 36.70A.212



## 12. State Contacts

### **Department of Commerce Growth Management Services**

[www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-school-siting/](http://www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-school-siting/)

Technical assistance to cities and counties on the procedural and substantive aspects of the Growth Management Act.

Anne Fritzel, Senior Planner, [Anne.Fritzel@commerce.wa.gov](mailto:Anne.Fritzel@commerce.wa.gov) 360 -725-3064

### **Washington State Department of Health Indoor Air Quality/ School Environmental Health and Safety**

[www.doh.wa.gov/schoolenvironment](http://www.doh.wa.gov/schoolenvironment)

Nancy Bernard, Program Manager, [Nancy.Bernard@doh.wa.gov](mailto:Nancy.Bernard@doh.wa.gov) 360-236-3072

Technical assistance to school districts as they consider school siting decisions.

### **Department of Health Wastewater Management Section**

[wastewatermgmt@doh.wa.gov](mailto:wastewatermgmt@doh.wa.gov) 360.236.3382

Technical assistance for questions especially relating to the topics of public health and safety for wastewater.

### **Washington State Department of Archeology and Historic Preservation**

Greg Griffith, [Greg.Griffith@dahp.wa.gov](mailto:Greg.Griffith@dahp.wa.gov) 360-586-3073 [www.dahp.wa.gov](http://www.dahp.wa.gov)).

Technical assistance in identifying cultural and historic resources on potential school sites. If school districts are using State Capital Budget funding from OSPI, other State of Washington agencies, or federal government assistance for planning, design, or construction of new schools, these projects require a review and comment by DAHP and interested Tribes.